

Zelmer Hyden

deposition

April 27, 2006

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

CHARLIE J. DAVIS, JR.,

Plaintiff,

vs.

ZELMER HYDEN, et al.,

Defendants.

)

NO: A02-0214 CV (JKS)

DEPOSITION OF ZELMER HYDEN

THURSDAY, APRIL 27, 2006, 9:28 a.m.

Anchorage, Alaska

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4	CHARLIE J. DAVIS, JR.,	4	
5	Plaintiff,	5	EXHIBITS
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13	DEPOSITION OF ZELMER HYDEN, taken on behalf	12	
14	of Plaintiff, Pursuant to Notice, at MATTHEWS &	13	
15	ZAHARE, 431 West Seventh Avenue, Anchorage, Alaska,	14	
16	before Susan Campbell, Certified Shorthand Reporter	15	
17	for Alaska Stenotype Reporters and Notary Public for	16	
18	the State of Alaska.	17	
19		18	
20		19	
21		20	
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1	A-P-P-E-A-R-A-N-C-E-S	1	ANCHORAGE, AK, THURSDAY, APRIL 27, 2006, 9:28 a.m.
2		2	ZELMER HYDEN,
3	For Plaintiff: MATTHEWS & ZAHARE	3	called as a witness on behalf of the
4	BY: THOMAS A. MATTHEWS	4	Plaintiff, having been duly sworn upon
5	431 West Seventh Avenue	5	oath by Susan Campbell, Notary Public,
6	Suite 207	6	was examined and testified as follows:
	Anchorage, AK 99501	7	EXAMINATION
7	For Defendants: STATE OF ALASKA	8	BY MR. MATTHEWS:
8	ATTORNEY GENERAL'S OFFICE	9	Q. Would you state your name for the record,
9	Department of Law	10	please?
10	Criminal Division	11	A. Okay. First name is Zelmer, Z-e-l-m-e-r.
11	BY: MARILYN J. KAMM	12	Last name is Hyden, H-y-d-e-n.
12	P.O. Box 110300	13	Q. Could you give us an address, please?
13	Juneau, AK 99811	14	A. P. O. Box 536, Sutton, Alaska 99674.
14	Reported By: Susan Campbell	15	Q. Do you have telephone number out there?
15	Certified Shorthand Reporter	16	A. 746-0336.
16		17	Q. How long have you lived in Sutton?
17		18	A. Oh, about seven, eight years.
18		19	Q. Ever had a deposition taken before?
19		20	A. Negative.
20		21	Q. Let me tell you briefly then just a couple
21		22	of the ground rules. I'm going to try and ask
22		23	questions clearly and intelligently. Sometimes I do.
23		24	Sometimes I don't. If you don't understand my
24		25	question for any reason, please let me know and I'll
25			

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<p style="text-align: right;">Page 6</p> <p>1 be happy to rephrase it. 2 It's not a test of your endurance, by any 3 means. If you needed a break, bathroom, coffee, 4 cigarette, walk around the block, anything like that, 5 just let me know and we'll be happy to accommodate 6 you. Hopefully, get you out of here before lunchtime 7 and back on your way to Sutton. 8 A. Works for me. 9 Q. Okay. In 2002 were you employed by the 10 State of Alaska? 11 A. That is correct. I believe at that time I 12 was the acting superintendent, Palmer Correctional 13 Center. 14 Q. Maybe you could give me, just to make it 15 easy on us, sort of a thumbnail sketch of your 16 employment history. 17 A. History of my employment? 18 Q. If you would. 19 A. Okay. I started with the State in 1978 as a 20 psychiatric assistant at Alaska Psychiatric Institute. 21 Worked there for about five years. And then I moved 22 to the Department of Corrections, oh, probably about 23 '83, '82, something like that. Worked at Cook Inlet, 24 Mat-Su Pretrial, Third Avenue Jail and Palmer 25 Correctional Center.</p>	<p style="text-align: right;">Page 8</p> <p>1 Alamogordo, New Mexico -- and Elmendorf Air Force 2 Base. 3 Q. Is it fair to say the military brought you 4 up to Alaska? 5 A. That is true. 6 Q. And when you left the military in '78, you 7 had been stationed at Elmendorf? 8 A. That's correct. 9 Q. And went promptly to work for the State of 10 Alaska? 11 A. That is correct. 12 Q. What training did you have to be a 13 psychiatric assistant? 14 A. At that particular time at API, it was all 15 on-the-job training. 16 Q. How did you get into the field of 17 corrections? 18 A. Briefly, it was after the Charles Meech 19 incident. And they kind of reshuffled everything at 20 API. And a lot of the -- and they moved a unit to 21 Hiland Mountain to do E&Os out there. And I went out 22 there. And then from that when they did move it back 23 to API, I went ahead and stayed with the Department. 24 Q. I'm going to ask you to break down a couple 25 of things in that last answer for me.</p>
<p style="text-align: right;">Page 7</p> <p>1 Q. How long did you stay employed by the State? 2 A. About 26 years all together. 3 Q. So you left State employment in what, 2004? 4 A. 2004. I believe June of '04 for retirement. 5 Q. And are you actively employed now? 6 A. No. Except housecleaning and things like 7 that. You know how that goes. 8 Q. Not working for pay, anyway. 9 A. No. It's all free now. Slave labor. 10 Q. And Sutton is where you make your home? 11 A. Yes. 12 Q. Tell me a little bit about your educational 13 background. 14 A. I graduated from Roswell High School in 15 Roswell, New Mexico in 1970. Attended Eastern 16 New Mexico University for a couple of years. And then 17 continued with more education while I was in the 18 United States Air Force. Ended up with a total of 19 about 91 semester hours, no degree. 20 Q. What years were you in the Air Force? 21 A. 1973 for five years. 22 Q. Highest rank? 23 A. E-4, sergeant. 24 Q. Where were you stationed? 25 A. Holloman Air Force Base -- that's in</p>	<p style="text-align: right;">Page 9</p> <p>1 A. That would be fine. 2 Q. First of all, what was the Charles Meech 3 incident? 4 A. The Charles Meech incident was an individual 5 who killed four teenagers in Russian Jack Park. No, 6 no. That was the other one. I'm getting them all 7 together. 8 Charles Meech killed two people. He killed 9 one one-armed kid. And that's the reason he was in 10 API. And then he was -- if I remember correctly, he 11 was on a pass from API working at Sears and he 12 killed -- I'm not sure. There's so many of those guys 13 right in there that we dealt with that it kind of runs 14 together. 15 Q. Not looking to get you off on a long tangent 16 here. It's just when you use a term, I may ask you to 17 explain it, just so we understand. 18 A. That's fine. 19 Q. So Charles Meech, I take it, was a patient 20 at API. 21 A. Yes. He was a Title 12. 22 Q. And that means? 23 A. He was incarcerated at API because he was 24 found to be incompetent. 25 Q. And at some point then he went out and</p>

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<p>1 Q. So there was no superintendent above you 2 during that time period?</p> <p>3 A. No.</p> <p>4 Q. During all of 2002?</p> <p>5 A. Probably during 2002 at some time I actually 6 became the -- the superintendent.</p> <p>7 Q. Okay. Who did you report to then?</p> <p>8 A. The director, Central Office. At that time 9 would have been Allen Cooper.</p> <p>10 Q. Is it fair to say, then, that during 2002 11 the rest of the staff at PCC all reported to you?</p> <p>12 A. No.</p> <p>13 Q. Okay. Explain the chain of command for me.</p> <p>14 A. Chain of command, all security staff, 15 kitchen staff, all of the staff reported to me.</p> <p>16 Medical staff was -- the medical staff, the nurses, 17 the PAs and the psychiatric people, mental health 18 conditions, et cetera, actually, they were assigned to 19 my building. And, you know, of course, their offices 20 and everything was in my building. But they actually 21 reported to the people in Central. I didn't write 22 their evaluations or anything like that, no. And if I 23 had an issue with these folks, I would go to Central 24 and talk to them about it.</p> <p>25 Q. And Central is located physically where?</p>	<p>1 and all the staff would assemble at that time.</p> <p>2 Q. And that's a daily meeting?</p> <p>3 A. And it was daily meeting. And medical would 4 be there most of the time, unless something was going 5 on in which they could not.</p> <p>6 Q. Were there records kept of those meetings --</p> <p>7 A. (Witness nods head.)</p> <p>8 Q. -- regular minutes or something like that?</p> <p>9 A. Yes, there was.</p> <p>10 Q. I should have told you at the beginning, the 11 nods of the head, the shaking the head doesn't work 12 very well. We can't pick them up for the court 13 reporter.</p> <p>14 A. I'm old. I'm tired.</p> <p>15 MS. KAMM: I hear you.</p> <p>16 BY MR. MATTHEWS:</p> <p>17 Q. Occasionally, I may jump in and prod you for 18 a verbal answer. So that's the reason.</p> <p>19 A. Okay.</p> <p>20 Q. So there were written minutes kept of each 21 of those daily meetings?</p> <p>22 A. Yes.</p> <p>23 Q. And what are those minutes called?</p> <p>24 A. Morning meeting minutes, I would assume.</p> <p>25 Q. Who was responsible for keeping those?</p>
<p>1 A. Diplomacy Drive.</p> <p>2 Q. In Anchorage?</p> <p>3 A. Yeah, in Anchorage.</p> <p>4 Q. During the time that you were -- strike 5 that.</p> <p>6 Let's talk about 2002. It's a little bit 7 easier time period. Who would the most senior medical 8 person have been who was assigned to PCC?</p> <p>9 A. That was actually assigned there?</p> <p>10 Q. Yes.</p> <p>11 A. Would probably have been Roger Hale.</p> <p>12 Q. And Mr. Hale was a PA?</p> <p>13 A. He was a PA. And I think when you say 14 assigned there, there were medical doctors on 15 contract, but Mr. Hale actually worked there.</p> <p>16 Q. Okay. And Mr. Hale, then, as a medical 17 person would not have reported directly to you.</p> <p>18 A. He would -- he would report to me. And, for 19 example, we'd have a meeting. And if there was 20 something significant, he would make the staff aware 21 at that particular time. But other than that, as far 22 as him working for me, no, he did not.</p> <p>23 Q. Did you have regular meetings with the 24 medical staff?</p> <p>25 A. There were morning meetings at 9:30. And --</p>	<p>1 A. My -- my clerk.</p> <p>2 Q. Who would that person have been during 2002?</p> <p>3 A. I can't -- I don't know for sure, because 4 there was -- there was two or three clerks coming and 5 going. And I'm not sure of the time frames that they 6 were actually there. People that did keep the 7 meetings -- the minutes were Sharon Wesson (phonetic), 8 I believe was her name.</p> <p>9 Q. Spell the last name.</p> <p>10 A. I'm not sure. What is her last name?</p> <p>11 Sharon. Starts with a W. I'm not even going to try 12 to remember. It's been too far back.</p> <p>13 Melody Chowoniec was another one.</p> <p>14 Q. Can you spell that last name?</p> <p>15 A. Oh, wow. C-h-o-w-o-n-i-a-c, I believe.</p> <p>16 Q. I wasn't going to come even close to that.</p> <p>17 A. And then there was one more. I can't 18 remember her name. And she's probably the one that 19 was there at that particular time. It may come to me 20 later.</p> <p>21 Q. Would that help you?</p> <p>22 A. That might.</p> <p>23 MR. MATTHEWS: Would you mark that as 24 Exhibit 1?</p> <p>25 (Exhibit 1 was marked.)</p>

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<p>1 one of these nurses was gone and another one was 2 there, you know. I really couldn't tell you. It's 3 been too long.</p> <p>4 Q. Are these -- are the old org charts kept in 5 some fashion as part of the records?</p> <p>6 A. I don't know the answer to that. Possibly, 7 but I don't know for sure.</p> <p>8 Q. Okay. This is the only one I've seen. 9 That's why I asked the question.</p> <p>10 Let me ask you this, if I can: During 2002, 11 during the time that Charlie Davis was at Palmer, are 12 you aware of any other medical personnel other than 13 those listed on this org chart who were assigned to 14 Palmer on a daily basis?</p> <p>15 A. Assigned on a daily basis?</p> <p>16 Q. Yes.</p> <p>17 A. Other than the doctors that come in two, 18 three times a week, no.</p> <p>19 Q. Do you know in 2002 who the doctors were 20 that were coming in on a regular basis?</p> <p>21 A. I'd have to look at -- I know Holloway. 22 There was a Lupan. There was -- I don't know. There 23 was like four or five different doctors. And then 24 another thing that would frequently occur -- and this 25 would happen several times a week -- inmates would be</p>	<p>1 A. Right. 2 Q. -- including Scott Kiester. 3 A. Yes. Billman. 4 Q. Holladay? 5 A. Holladay and Christensen, right. 6 Q. Are you aware of any other physicians? 7 A. There were, but I couldn't recall. It 8 was -- 9 Q. While we're on these discovery requests 10 we've marked as Exhibit 2, is that a document you're 11 familiar with? 12 A. This document here? 13 Q. Yes. 14 A. Yes. 15 Q. This is an unsigned copy that we were 16 provided. Housekeeping matter, have you signed -- 17 A. I believe I did some time back. 18 Q. Did you? Maybe I just did not locate the 19 signature page when I was looking. 20 A. My copy, is it signed? Was that a question? 21 Q. My question is, did you ever sign that 22 document at any point? 23 You've got the signature page? 24 MS. KAMM: Yes. 25 THE WITNESS: You do have it?</p>
<p>1 transferred -- or not transferred -- but taken to 2 doctors' offices.</p> <p>3 So if an inmate had a particular issue, say 4 it's an ear, nose and throat issue, an appointment 5 will be made. The transportation staff will take him 6 to his appointment and bring him back. So in addition 7 to care at the facility and doctors coming into the 8 facility, it was not -- it was very common for inmates 9 to leave on a daily basis to go to medical 10 appointments all the way to Anchorage.</p> <p>11 MS. KAMM: Can you tell me who the doctors 12 are that he identified? 13 (Record read.)</p> <p>14 THE WITNESS: Kiester. There's a Kiester, 15 Dr. Kiester. K-e-i-s-t-e-r.</p> <p>16 MR. MATTHEWS: Try it this way. Mark that 17 the next one. 18 (Exhibit 2 was marked.)</p> <p>19 BY MR. MATTHEWS:</p> <p>20 Q. If you would take a look at the second page 21 of what we've marked as Exhibit 2, there's an 22 interrogatory there, number three, asking about 23 doctors.</p> <p>24 A. Uh-huh.</p> <p>25 Q. And there's a list of names there --</p>	<p>1 MR. MATTHEWS: May I take a look at yours? 2 MS. KAMM: Sure. 3 MR. MATTHEWS: Why don't we just go off the 4 record for a minute? 5 (Brief recess.) 6 (Exhibit 3 was marked.) 7 BY MR. MATTHEWS: 8 Q. While we were off the record, we've located 9 the signature page that appears to be for you. And 10 we've now marked that as Exhibit 3; is that right? 11 A. That is correct. 12 Q. And that bears your signature? 13 A. That sure looks like it to me. 14 Q. And it looks like you signed that page on 15 the 28th day of January 2005, right? 16 A. Correct. 17 Q. And to the best of your knowledge, does that 18 signature page go with the interrogatories which we've 19 marked as Exhibit 2? 20 A. To the best of my knowledge, that is 21 correct. 22 Q. Turning back to the org chart for just a 23 moment, in terms of the medical side of the staff, who 24 would be responsible on a daily basis for overall 25 medical care of the inmates? Is there any one</p>

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<p>1 individual who would be in charge?</p> <p>2 A. I really don't know how to answer that. I</p> <p>3 know that Hughes and Hale were the two PAs. I would</p> <p>4 have to say those two. Now, they work a week on and a</p> <p>5 week off, because they cover 12 hours. And so I</p> <p>6 couldn't answer specifically. Maybe Mel Henry or the</p> <p>7 people -- but I would say if I had to give you an</p> <p>8 answer, it would be Hale and Hughes and not one or the</p> <p>9 other. They were equals, as I understood.</p> <p>10 Q. They didn't work at the same time, right?</p> <p>11 A. No.</p> <p>12 Q. So Hale and Hughes were working 12-hour</p> <p>13 shifts what, seven days a week?</p> <p>14 A. Yes.</p> <p>15 Q. And that shift would have run during the</p> <p>16 daytime?</p> <p>17 A. They would have been there daytime hours,</p> <p>18 correct. And I don't know what the specific hours</p> <p>19 were.</p> <p>20 Q. 7:00 to 7:00 or something like that?</p> <p>21 A. Yeah, something like that.</p> <p>22 Q. And how about the nurses that are listed</p> <p>23 underneath there, do you know what kind of shifts they</p> <p>24 would have run?</p> <p>25 A. You know, medical staff changed a couple of</p>	<p>1 know which ones -- the officers might pass out already</p> <p>2 packaged and -- you know, this inmate gets this out of</p> <p>3 this packet at this time. And those officers had some</p> <p>4 training to do that. Every officers didn't do it.</p> <p>5 There was only a few that had that specific training</p> <p>6 to handle that in the times when medical wasn't there.</p> <p>7 Q. Are you talking about correctional officers?</p> <p>8 A. Correct.</p> <p>9 Q. Do you know who the correctional officers</p> <p>10 were that had that training during 2002?</p> <p>11 A. I wouldn't try to guess. It's too far.</p> <p>12 Q. Were those officers who reported to you?</p> <p>13 A. They reported to their shift supervisor who</p> <p>14 reported to the assistant superintendent who reported</p> <p>15 to me.</p> <p>16 Q. So typically, then, during 2002, was there a</p> <p>17 medical person on duty during the evening hours,</p> <p>18 nighttime hours?</p> <p>19 MS. KAMM: And what are the nighttime hours?</p> <p>20 BY MR. MATTHEWS:</p> <p>21 Q. 7:00 p.m. to 7:00 a.m.</p> <p>22 A. There was a period of time when there was</p> <p>23 not medical people on-site. Okay. I don't know what</p> <p>24 time that was. I don't know what their hours were.</p> <p>25 Couldn't even begin to guess. But there was a period</p>
<p>1 times. And I'm not sure. But as what I remember is</p> <p>2 they also worked a week on and a week off. So there</p> <p>3 was a nurse there for 12 hours. And then there was --</p> <p>4 there were -- and I don't know exactly what their</p> <p>5 hours were.</p> <p>6 Q. During 2002 can you tell me how many medical</p> <p>7 staff would typically be on duty during the daytime?</p> <p>8 A. During the daytime? That building was a</p> <p>9 good ways from my office. Usually when I would go</p> <p>10 over there, you would always see a PA during the day,</p> <p>11 at least one nurse. And, of course, the dental people</p> <p>12 was right adjacent to them. There would usually be</p> <p>13 two dental people there.</p> <p>14 Q. So a PA and a nurse --</p> <p>15 A. So you'd see -- as a rule, you'd see a nurse</p> <p>16 and a PA.</p> <p>17 Q. How about during the nighttime hours?</p> <p>18 A. During the nighttime hours, it was my</p> <p>19 understanding that they had their shifts set to where</p> <p>20 they could do the last med pass; however, there were</p> <p>21 some inmates that might have had meds later in the</p> <p>22 evening. And it's my understanding that in some</p> <p>23 cases, inmates were allowed to carry these meds and do</p> <p>24 self-administration of their own drugs.</p> <p>25 And probably in some cases -- and I don't</p>	<p>1 of time where if there's an emergency, you need to</p> <p>2 call the ambulance or the PAs were on-call, you know,</p> <p>3 they -- they had a State car and were to, boom, here</p> <p>4 we come. So that was how it was done.</p> <p>5 Q. Who set those shifts?</p> <p>6 A. I'm -- I have to assume. And I do not know</p> <p>7 the answer to that. I assume Mel Henry. It certainly</p> <p>8 wasn't me.</p> <p>9 Q. Is it fair to say then that during a 24-hour</p> <p>10 day, typically, during 2002, there was a period of</p> <p>11 time where there was no medical person physically</p> <p>12 on-site?</p> <p>13 A. Physically on-site?</p> <p>14 Q. Physically on-site.</p> <p>15 A. That is probably correct.</p> <p>16 Q. The daytime hours would be predominantly</p> <p>17 covered, but not the night?</p> <p>18 A. The daytime hours, there would be somebody</p> <p>19 there, yes.</p> <p>20 Q. But during the nighttime hours --</p> <p>21 A. And I do know that even through that last</p> <p>22 pill pass at like 6:00, you know, around meal time,</p> <p>23 they were there. What time that they left, I do not</p> <p>24 know.</p> <p>25 Q. And that was -- that would be a better</p>

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<p>1 thus we're here. It goes to court. He can go to 2 court with it.</p> <p>3 Q. So your involvement in the process would be 4 after the grievance is filed, beyond the cop-out 5 stage, right?</p> <p>6 A. Uh-huh.</p> <p>7 Q. So if the cop-out resolves it, you don't get 8 involved at all.</p> <p>9 A. Exactly. If the prisoner is happy and 10 something was wrong, it's fixed, all is good.</p> <p>11 Q. If it goes to the grievance, you review 12 every grievance that's filed.</p> <p>13 A. I review every grievance that's filed, yes.</p> <p>14 Q. And the compliance officer would be the one 15 who would assign it in the initial instance for 16 investigation.</p> <p>17 A. Right.</p> <p>18 Q. Right? Do you remember, as you sit here 19 today, your involvement in Mr. Davis' grievance?</p> <p>20 A. I -- I -- I remember, you know, when I seen 21 the grievance, I -- I remember the grievance. And, 22 you know, a lot of times, you'll deal with the 23 grievance or whatever, the responses are made, it's 24 all resolved and you've never seen the inmate. You're 25 dealing with a piece of paper.</p>	<p>1 MR. MATTHEWS: Let me show you what we've 2 marked as Exhibit 4.</p> <p>3 THE WITNESS: Can we take a short break 4 before we go on to Exhibit 4?</p> <p>5 MR. MATTHEWS: Sure. Off record.</p> <p>6 MS. KAMM: I could use a break, too.</p> <p>7 (Brief recess.)</p> <p>8 BY MR. MATTHEWS:</p> <p>9 Q. We've put in front of you, Mr. Hyden, 10 Exhibit 4. Ask you if you recognize that document.</p> <p>11 A. Okay. Yeah. Exhibit 4 is the grievance 12 filed by Charlie Davis.</p> <p>13 Q. And this exhibit consists of four pages, 14 which I think is taken from the entire grievance 15 packet. What I want to see if I can understand is 16 what your part in that grievance was.</p> <p>17 A. Okay. Briefly, the prisoner writes down his 18 grievance, which he -- he has done so. And then he 19 requests what his relief is. And he has done so. 20 It's dated and it's signed. And then Mr. -- or the 21 compliance sergeant would assign it to someone to 22 investigate.</p> <p>23 In this case, it appears it had been 24 assigned to Mr. Hale. And Roger Hale had -- what it 25 states is "The issue of manning/staffing cannot be</p>
<p>1 Q. So in terms of your specific memory today, 2 you remember that there was a grievance. Do you 3 remember the specifics of it at all?</p> <p>4 A. Well, I've looked at the grievance recently. 5 That could cloud my -- but I think I do remember the 6 grievance.</p> <p>7 Q. Okay. When did you look at the grievance 8 recently?</p> <p>9 A. Actually, when I received this to sign, I 10 started looking to find out what in the world have I 11 done, you know. And I probably looked at it then. 12 And then -- and then I thought this was resolved. And 13 so then I've looked at it again recently in the last 14 couple days, because we're here.</p> <p>15 Q. Just so that I'm clear, you were pointing at 16 some papers. So you looked at the grievance, it looks 17 like, around the time that you signed the 18 interrogatory responses in January of 2005.</p> <p>19 A. Correct.</p> <p>20 Q. And then more recently, just in getting 21 ready for the deposition.</p> <p>22 A. Uh-huh.</p> <p>23 Q. Is that right?</p> <p>24 A. That is correct.</p> <p>25 (Exhibit 4 was marked.)</p>	<p>1 addressed at this level. I spent about 20 minutes 2 explaining how he can access medical (that is not 3 (sic) available at PCC)." And that was Mr. Hale's 4 response.</p> <p>5 After Mr. Hale would have responded, the 6 compliance sergeant would get the grievance and bring 7 it to me for my review. And I would review the 8 grievance, look at Mr. Hale's response and then write 9 down my findings.</p> <p>10 I'm not a medical person. I have to depend 11 heavily on what medical tells me. So thus, I wrote 12 "The above investigation does not address the 13 prisoner's grievance. Perhaps prisoner should be 14 transferred to facility with full time medical staff 15 to accommodate 'life threatening' condition." That 16 was my response.</p> <p>17 And then after that, the prisoner would 18 review it. Now, this grievance has some alter -- is 19 altered to the one that I had. Whether he was 20 satisfied, et cetera, is not on the one I have. And 21 the last block where it says I am satisfied with 22 response or not, this one is not completed at all.</p> <p>23 Q. And you're looking at the second page of 24 Exhibit --</p> <p>25 A. The second page, right.</p>

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<p>1 Q. -- of Exhibit 4, the bottom block that says 2 "Prisoner's Response"?</p> <p>3 A. Right.</p> <p>4 MR. MATTHEWS: I don't have the original of 5 this, so --</p> <p>6 MS. KAMM: I think I've got the original. 7 I'll take a look at it when I get back to the office.</p> <p>8 MR. MATTHEWS: Okay.</p> <p>9 MS. KAMM: I'll fax it to you if we've 10 got --</p> <p>11 THE WITNESS: And I would have to assume the 12 original is going to be checked, I do intend to appeal 13 to the Director of Institutions or Medical Director, 14 which that was done. And then page three of what 15 we're looking at here is the Prisoner Grievance Appeal 16 Statement. And this would be what the prisoner wrote 17 to the medical director. And then the medical 18 director's response is the last page.</p> <p>19 BY MR. MATTHEWS:</p> <p>20 Q. Okay. Is it fair for me to conclude that 21 your involvement, your specific involvement in this 22 grievance, would have been to review Mr. Hale's 23 findings and determination and to sign off on the 24 grievance as you did on the second page?</p> <p>25 A. That is correct.</p>	<p>1 he was getting at Palmer, didn't think it was 2 adequate?</p> <p>3 A. He -- he probably thought that, yes.</p> <p>4 Q. Okay. I'm not asking whether you agree that 5 the care --</p> <p>6 A. Okay. Yes.</p> <p>7 Q. -- was inadequate.</p> <p>8 A. Because in my opinion, the grievance is very 9 confusing. Okay?</p> <p>10 Q. All right. Let me ask you this then: How 11 did you interpret Mr. Davis' grievance when you 12 received it?</p> <p>13 A. Well, I read it and I was like -- I 14 really -- you know, because there's a number of things 15 you could read into this. And I read it. And then I 16 read what Mr. Hale had -- you know, who had talked to 17 him for several minutes. And I -- I thought -- I 18 thought Mr. Hale should have been a little more 19 specific in these times, actually put something 20 specific down here. This is the reason that I wrote 21 what I wrote.</p> <p>22 To me as a superintendent, to say I spent 20 23 minutes how he could access medical in a document like 24 this, I would like to see written out, you do this, 25 you do this, you do this and you do this. Okay? And</p>
<p>1 Q. You made the comments that the investigation 2 did not address the grievance and perhaps he should be 3 transferred to a different facility, right?</p> <p>4 A. Correct.</p> <p>5 Q. Beyond that, did you have any involvement in 6 this grievance?</p> <p>7 A. None. Now, there could have been a time 8 when in one of these meetings, Mr. Davis' issues, I 9 would have been made aware of his issues. Probably -- 10 I don't know when the time frame was when I was made 11 aware of his -- if I receive a prisoner at medium, I'm 12 not aware that he has a bypass or a defibrillator or 13 anything of this nature until someone makes me aware 14 of it. And I would assume that probably about the 15 time this grievance was filed is when I would have 16 been made aware of Mr. Davis' issues with medical.</p> <p>17 Q. Is it fair to say that Mr. Davis' grievance 18 was for inadequate medical care?</p> <p>19 A. I -- I disagree with that.</p> <p>20 Q. You disagree that that's what he was 21 complaining about?</p> <p>22 A. Say the question again. Maybe I 23 misunderstood you.</p> <p>24 Q. Is it fair to say that Mr. Davis' grievance 25 was essentially that he didn't like the medical care</p>	<p>1 that wasn't done. So that was thus part of my 2 response.</p> <p>3 Q. Your conclusion was that the -- that 4 Mr. Hale's response was inadequate.</p> <p>5 A. Yes. I wanted him to give -- because if a 6 prisoner files a grievance -- and I might add here, I 7 was the compliance sergeant at Mat-Su Pretrial and 8 dealt with these regularly. So I'm very familiar with 9 the grievance process.</p> <p>10 I just really like -- when an inmate is 11 upset enough to file a grievance, address his issues. 12 If they're frivolous, they're frivolous. But address 13 his issues in that grievance. And I just would like 14 to have seen specific things written out, you know, 15 rather than I spent 20 minutes talking to him.</p> <p>16 Q. You didn't feel Mr. Hale's response 17 addressed the grievance; is that true?</p> <p>18 A. That's what I felt at the time, yes.</p> <p>19 Q. And your suggestion was that perhaps 20 Mr. Davis should be transferred to a different 21 facility that had full-time medical care to 22 accommodate his life-threatening condition.</p> <p>23 A. Possibly. And I put life-threatening 24 because -- and I'm going to assume here that at that 25 time I wasn't totally aware of Mr. Davis' issue,</p>

14 (Pages 50 to 53)

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<p>1 his grievance?</p> <p>2 A. Seems like it states so in the grievance.</p> <p>3 And what kind of briefing I could have had from</p> <p>4 medical regarding this, you know -- because I feel</p> <p>5 certain that medical talked to someone, probably in</p> <p>6 one of these meetings, about this individual and</p> <p>7 closely monitoring him. But I can't -- it's been too</p> <p>8 far back. I can't recall.</p> <p>9 Q. When you say "these meetings," are you</p> <p>10 talking about your daily briefings?</p> <p>11 A. Correct.</p> <p>12 Q. Prior to Mr. Davis' grievance, did you know</p> <p>13 what an implanted defibrillator was?</p> <p>14 A. Uh-huh.</p> <p>15 Q. And how did you have that knowledge?</p> <p>16 A. My ex-wife was a nurse. I knew quite a bit</p> <p>17 about that.</p> <p>18 Q. Did you understand that a person with an</p> <p>19 implanted defibrillator by definition had a serious</p> <p>20 heart condition?</p> <p>21 A. Well, I would say my medical knowledge, I</p> <p>22 have no formal training in medical. I -- I can't say</p> <p>23 that I would understand anything about medical. I</p> <p>24 haven't been trained in any medical other than CPR and</p> <p>25 whatever. But vaguely, yeah, you'd have to assume if</p>	<p>1 medical record.</p> <p>2 Q. Do you know whether or not you called PA</p> <p>3 Hale --</p> <p>4 A. Don't recall.</p> <p>5 Q. -- in response to this grievance?</p> <p>6 A. I feel that we probably had some</p> <p>7 conversations regarding this individual, strictly</p> <p>8 because of the grievance and it's medical. But I</p> <p>9 can't recall those. It's been too long and too many</p> <p>10 inmates. And I mean, I can't -- I can't specifically</p> <p>11 remember.</p> <p>12 Q. Would your actions or conversations with</p> <p>13 Mr. Hale have been documented in any way?</p> <p>14 A. Probably the only documented thing would be</p> <p>15 the morning meetings. I can't -- every time I talk to</p> <p>16 someone about an inmate's hangnail, I don't go</p> <p>17 document that. That's just not real. I know what</p> <p>18 you're asking, you know, but it's -- no, it wouldn't</p> <p>19 have been documented other than what I would have</p> <p>20 wrote here. You know, if I called him prior to</p> <p>21 writing this -- and I don't remember a conversation.</p> <p>22 I'm sure there probably could have been one, but it's</p> <p>23 just too long ago and too much has happened.</p> <p>24 Q. So you just don't remember at this point.</p> <p>25 A. I don't remember at this point.</p>
<p>1 someone has something placed in their chest, yeah,</p> <p>2 it's serious.</p> <p>3 Q. Fair to say they would not have had the</p> <p>4 implant if it weren't serious?</p> <p>5 A. But also, I know people that have implants</p> <p>6 and they're out working jobs and stuff and everything</p> <p>7 is hunkey dorey. And they're doing whatever. So once</p> <p>8 again, I'm not a medical staff. I don't know what</p> <p>9 limitations a defibrillator could have. There's --</p> <p>10 because I know a couple people with these kind of</p> <p>11 things and they're living pretty much normal lives.</p> <p>12 So I can't second guess that, no.</p> <p>13 Q. Let me ask you this: At the time Mr. Davis</p> <p>14 filed his grievance, did you have any personal</p> <p>15 knowledge of what his medical condition was?</p> <p>16 A. At the time he filed the grievance, probably</p> <p>17 not.</p> <p>18 Q. In your response to his grievance, did you</p> <p>19 review any of his medical records to see what his</p> <p>20 condition was?</p> <p>21 A. I did not look at a medical record. What I</p> <p>22 would probably do if I did so, something of that</p> <p>23 nature, would be to call a PA, ask specific questions</p> <p>24 for specific answers, you know. And I would be much</p> <p>25 clearer on what I understood rather than go look at a</p>	<p>1 Q. Is it fair to say, Mr. Hyden, that after</p> <p>2 your written response to this grievance, you don't</p> <p>3 have any memory of taking any other action with regard</p> <p>4 to Charlie Davis?</p> <p>5 A. None.</p> <p>6 Q. Do you remember having any further contact</p> <p>7 with a PA to inquire about Mr. Davis' status?</p> <p>8 A. I don't recall anything.</p> <p>9 Q. Do you remember contacting anyone else on</p> <p>10 the medical staff to find out how Mr. Davis was doing?</p> <p>11 A. No. That's something that if there's a</p> <p>12 problem, they would come to me, you know. I can't --</p> <p>13 Q. Is it fair to say that unless a problem is</p> <p>14 brought to your attention, it's not something you're</p> <p>15 going to go seek out?</p> <p>16 A. Exactly.</p> <p>17 Q. So follow-up would not have been part of</p> <p>18 your routine.</p> <p>19 A. No. If they was having a problem or</p> <p>20 something, they would probably get hold of me,</p> <p>21 et cetera. But to sit there and think, I wonder if</p> <p>22 this is working out, I should go check on this, you</p> <p>23 know, you may have all kinds of things going. No, I</p> <p>24 don't think I would have -- I would have waited for</p> <p>25 them, you know, to give me some kind of indication</p>

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<p>1 you know at 10:00 o'clock, I have to get my meds, 2 there's also what we call the boombox where master 3 control, you get on the big speaker and you go, you 4 know, meds are being passed at this time. And I mean, 5 everybody can hear it.</p> <p>6 Now, if the prisoner doesn't show up, he 7 doesn't get his meds. Now, if it's something that's 8 life-threatening that he needs to have -- and I have 9 seen this happen -- medical would put him into medical 10 seg to assure that they could monitor him and he'd get 11 his meds.</p> <p>12 Q. Okay.</p> <p>13 A. Now, if you -- you know, if it was your 14 stomach medicine or something, you know, whatever -- I 15 mean, this would be something, you know, it's 16 important you get this. This is life-threatening.</p> <p>17 And they would take those steps to make sure he got 18 his meds. And I would sign off on the seg admission 19 as superintendent.</p> <p>20 Q. And just so that I'm clear, when you're 21 talking about a seg admission, segregation?</p> <p>22 A. Yes. And that's not the proper term. It 23 would be actually placed in the infirmary. You know, 24 it's just old habit. You'd call it medical seg.</p> <p>25 And to my knowledge, Mr. Davis was never</p>	<p>1 Q. That's a unique situation, right? 2 A. Yes, that's unique.</p> <p>3 Q. You'd want to make sure -- 4 A. We've had -- I mean, it's not the first one.</p> <p>5 There's been people through there with pacemakers, 6 et cetera. So -- but, you know, the staff need to be 7 aware there's special needs here.</p> <p>8 And I can't recall specifics, but I do 9 recall that in these morning meetings, medical -- I do 10 recall them, you know, frequently telling us about, 11 you know, specific inmates and specific problems, 12 et cetera. The exact context regarding Mr. Davis, I 13 can't recall.</p> <p>14 Q. You would agree, Mr. Hyden, that an inmate 15 that comes into your facility with an implanted 16 defibrillator has special needs?</p> <p>17 A. Uh-huh.</p> <p>18 Q. That's what you just said, right? I need 19 you to answer out loud. Sorry.</p> <p>20 A. Oh, yes. It's unusual and it should -- it's 21 special, yes.</p> <p>22 Q. You would also agree, I take it, that PCC 23 had an obligation to make sure his necessary medical 24 care was taken care of.</p> <p>25 A. Oh, I don't know that it wasn't. He feels</p>
<p>1 placed in medical seg. So I was not aware that there 2 was any issues beyond these.</p> <p>3 Q. And I take it you're not aware of any 4 situation where Mr. Davis showed up for med line and 5 was denied his medication.</p> <p>6 A. I would fire the officer. Or if I couldn't 7 fire him, I'd do my best.</p> <p>8 Q. That would be a very serious issue to you?</p> <p>9 A. Absolutely.</p> <p>10 Q. Do you know how long Mr. Davis was actually 11 at Palmer?</p> <p>12 A. Haven't got a clue.</p> <p>13 Q. Do you know whether or not Mr. Davis' 14 medical condition was ever mentioned in one of your 15 daily briefings?</p> <p>16 A. I would -- I would assume and feel certain 17 that it would be mentioned. You know, staff need to 18 be made aware -- if you have a prisoner like this in 19 the population, there needs to be an awareness that 20 that person exists. And I feel certain that if you 21 look at those records, you'll see that somewhere.</p> <p>22 Q. When you say "a person like this," a person 23 with Mr. Davis' medical condition, is that what you 24 mean?</p> <p>25 A. Somebody with a defibrillator, yes.</p>	<p>1 it wasn't. Mr. Davis -- you know, I'm not being smart 2 here. He's still doing fine, to my knowledge. I 3 don't know that anything was done there that was 4 detriment to his health. I don't know that as a 5 non-medical person.</p> <p>6 Q. You would agree that he -- his medical care 7 needed to be attended to while he was at Palmer, 8 correct?</p> <p>9 A. Yes.</p> <p>10 Q. And because of the fact that he had an 11 implanted defibrillator, his medical needs were 12 different than the average population up there, true?</p> <p>13 A. Absolutely.</p> <p>14 Q. It would be essential to make sure that any 15 prescribed medications were given to him, right?</p> <p>16 Correct? You need to answer out loud.</p> <p>17 A. Once again, that depends on the medicine. I 18 have inmates that come in, hey, I had a doctor that 19 ordered me OxyContin ten years ago. And the thing 20 still goes. I want this. Then the inmate files a 21 grievance, I'm not getting my OxyContin. And the 22 medical staff we had, no, you don't need that. You're 23 not getting that.</p> <p>24 So it's not an exact answer. You'd have to 25 be more specific. Which medications, you know? And</p>

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